

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Criminal Action
	)	No. 13-10200-GAO
	)	
DZHOKHAR A. TSARNAEV, also	)	
known as Jahar Tsarni,	)	
	)	
Defendant.	)	
	)	

BEFORE THE HONORABLE GEORGE A. O'TOOLE, JR.  
UNITED STATES DISTRICT JUDGE

**JURY TRIAL - DAY FORTY-FOUR**  
**REDACTED SIDEBAR CONFERENCE**

John J. Moakley United States Courthouse  
Courtroom No. 9  
One Courthouse Way  
Boston, Massachusetts 02210  
Tuesday, April 7, 2015  
9:15 a.m.

Marcia G. Patrisso, RMR, CRR  
Official Court Reporter  
John J. Moakley U.S. Courthouse  
One Courthouse Way, Room 3510  
Boston, Massachusetts 02210  
(617) 737-8728

Mechanical Steno - Computer-Aided Transcript

## 1 APPEARANCES:

## 2 OFFICE OF THE UNITED STATES ATTORNEY

3 By: William D. Weinreb, Aloke Chakravarty and  
4 Nadine Pellegrini, Assistant U.S. Attorneys  
5 John Joseph Moakley Federal Courthouse  
6 Suite 9200

7 Boston, Massachusetts 02210

8 - and -

## 9 UNITED STATES DEPARTMENT OF JUSTICE

10 By: Steven D. Mellin, Assistant U.S. Attorney  
11 Capital Case Section

12 1331 F Street, N.W.

13 Washington, D.C. 20530

14 On Behalf of the Government

## 15 FEDERAL PUBLIC DEFENDER OFFICE

16 By: Miriam Conrad and William W. Fick,

17 Federal Public Defenders

18 51 Sleeper Street

19 Fifth Floor

20 Boston, Massachusetts 02210

21 - and -

## 22 CLARKE &amp; RICE, APC

23 By: Judy Clarke, Esq.

24 1010 Second Avenue

25 Suite 1800

San Diego, California 92101

- and -

## LAW OFFICE OF DAVID I. BRUCK

By: David I. Bruck, Esq.

220 Sydney Lewis Hall

Lexington, Virginia 24450

On Behalf of the Defendant

P R O C E E D I N G S

\* \* \*

MR. WEINREB: Your Honor, I would like to be heard at sidebar about one matter.

(Discussion at sidebar and out of the hearing of the jury:)

MR. WEINREB: So, your Honor, we were informed by Tracy Dayton, the firewall counsel, that she had requested and received the Court's permission to let us know that the defense intended to withdraw their 12.2 notice. We haven't seen any withdrawal and we still have absolutely no idea which of the experts who were originally proposed by the defense to talk about things like PET scan imagery, testing of the defendant and other matters, are still planning on testifying or not.

And we're now at the point where we're going to begin filing motions in limine and preparing cross-examination and other things, and it would be very helpful for us to know the answer to those questions.

MS. CLARKE: Well, the 12.2 notice has been filed.

THE COURT: Well, I think what happened, if I'm correct, is it was filed in the MBD and not in this case. It has to be filed in this case as well, I guess.

MS. CLARKE: Okay. We just followed the instructions.

THE COURT: Right. Right. Right. So I think it has to be filed -- I mean, it was originally filed in this case and

1 the withdrawal should be filed in this case. A simple  
2 withdrawal, I guess.

3 I want to have a conference at some convenient time  
4 when we have some other -- when other matters have been  
5 resolved to talk about witness planning and things like that  
6 for another phase.

7 MR. MELLIN: Your Honor, given the withdrawal, does  
8 the Court have any objection to us talking to Ms. Clarke and  
9 Mr. Bruck about the defense case and trying to resolve these  
10 issues? Because we do need some guidance as to what's coming  
11 so we have at least some idea which of our experts we should  
12 cut loose, which experts we should still --

13 THE COURT: The restriction on prosecutors dealing  
14 with the defense was related only to the 12.2 process.

15 MR. MELLIN: Okay.

16 THE COURT: Okay.

17 \* \* \*

## C E R T I F I C A T E

I, Marcia G. Patrisso, RMR, CRR, Official Reporter of the United States District Court, do hereby certify that the foregoing transcript constitutes, to the best of my skill and ability, a true and accurate transcription of my stenotype notes taken in the matter of Criminal Action No. 13-10200-GAO, United States of America v. Dzhokhar A. Tsarnaev.

/s/ Marcia G. Patrisso  
MARCIA G. PATRISSEO, RMR, CRR  
Official Court Reporter

Date: 5/10/16